

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No.2163 of 1992

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For Approval and Signature:

Hon'ble MR.JUSTICE R.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 to 5 : NO

SECRETRY

Versus

SATYAVATIBEN V MAKWAN

Appearance:

MR KG PANDIT for Petitioners

MR SV RAJU for Respondent No. 1

RULE SERVED for Respondent No. 2

CORAM : MR.JUSTICE R.A.MEHTA

Date of decision: 17/04/98

ORAL JUDGEMENT :

The petitioner-Management is aggrieved by the judgment and order of the Gujarat Primary Education Tribunal whereby respondent no.1 was directed to be reinstated with full back wages. The dismissal was from 5.11.1988. The reinstatement order is of 17.3.1992. We are in 1998; ten years after the dismissal and six years

after the order of reinstatement with back wages.

2. Though this petition was admitted in March 1992 and interim relief was refused, till today neither back wages are paid nor reinstatement is made and there is utter non compliance with the order of the Tribunal.

3. On merits the learned counsel for the petitioners submits that the petitioners have committed gross misconduct of affecting the career and future of a child by misplacing an answer book of one child of Standard V. It is submitted that the respondent was given a show cause notice. Inquiry Committee was appointed. Inquiry Committee had given reasonable opportunity to the respondent. The respondent had refused to lead any evidence and on the basis of the record the Inquiry Committee had found that misconduct was proved and the respondent was thereafter dismissed from service after following principles of natural justice and all procedures. It is also submitted that the School Management had sent necessary papers for approval by respondent no.2, and within 45 days it was not disapproved and the termination had become operative and the Tribunal has erred in interfering with the same.

4. It is to be seen that before the Inquiry Committee the Management has not led any evidence and it cannot be said to be an inquiry held in the presence of the respondent and in compliance of principles of natural justice. Moreover, the charge against the respondent was not at all a serious charge wherein she was charged of misplacing of an answer book. It cannot be said that the future of the child was jeopardised in any manner. It was not a critical examination like Standard XII. It was an examination of Standard V, where ordinarily 100 % result is there. Surprisingly, the answer book came to be delivered by Registered Post to the School Management on the day when result was declared. Thus, there was nothing serious in the charge; the School Management has proceeded on such a flimsy charge, the Inquiry Committee has proceeded without recording any evidence in presence of the respondent. The inquiry was held in breach of principles of natural justice.

In view of this the Tribunal was fully justified in granting reinstatement with full back wages. There is no case for interference. Hence the petition is dismissed. Rule is discharged with costs. The petitioners are directed to comply with the judgment and order of the Tribunal of reinstatement with full back wages, latest by 15th June 1998. Any breach in

compliance of this order or directions of this Court, the petitioner shall face all the consequences or such breach and non-compliance of the order of this High Court.

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